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10/021,395	12/19/2001	Albert R. Kelly		2536

7590 05/30/2003
Evelyn M. Sommer
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EXAMINER

PIERCE, JEREMY R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 05/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/021,395

Applicant(s)

KELLY, ALBERT R.

Examiner

Jeremy R. Pierce

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 14 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-13, drawn to a disposable flexible article, classified in class 442, subclass 381.
 - II. Claim 14, drawn to a method of manufacturing a disposable flexible article, classified in class 156, subclass 73.1.
 - III. Claim 15, drawn to a method of cleaning a hard surface, classified in class 15, subclass various.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product may be made by thermally point bonding with hot needles rather than ultrasonic bonding.
3. Inventions I and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different

Art Unit: 1771

process of using that product (MPEP § 806.05(h)). In the instant case the product may be used for cleaning a surface without wetting with water.

4. Inventions II and III are related as process of making and process of using the product. The use as claimed cannot be practiced with a materially different product. Since the product is not allowable, restriction is proper between said method of making and method of using. The product claim will be examined along with the elected invention (MPEP § 806.05(i)).

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

6. During a telephone conversation with Evelyn Sommer on May 20, 2003 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-13. Applicant must make affirmation of this election in replying to this Office action. Claims 14 and 15 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Specification

7. The disclosure is objected to because of the following informalities: On page 13, lines 11-13, the present application incorporates U.S. Patent No. 6,141,644 by reference in reference to cleaning compositions that may be used. However, this patent is directed to speaker verification and identification based on eigenvoices, and not cleaning compositions.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 6-8, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haq et al. (U.S. Patent No. 4,603,069) in view of Lutzow et al. (U.S. Patent No. 5,466,516).

Haq et al. disclose a cleaning wipe article where a core layer is sandwiched by two nonwoven fabric layers that are ultrasonically bonded (column 3, lines 35). The core layer may be any suitable material that can absorb liquids (column 3, lines 57-65), but Haq et al. fail to disclose the core to be nonwoven. Lutzow et al. disclose that a nonwoven absorbent core may be ultrasonically bonded between two outer nonwoven layers (column 2, lines 28-44). It would have been obvious to one having ordinary skill in the art to use a nonwoven layer as the central layer of Haq et al. in order to be able to bond the central layer to the outer layers, and since nonwoven absorbent fabrics are commonly used in wiping articles. Haq et al. also disclose a cleaning composition to be present in the core layer (column 3, lines 46-56). Neither Haq et al. nor Lutzow et al. disclose the size of the perforations created by ultrasonic welding. However, the size of the perforations would be a result effective variable that would affect the overall porosity

of the fabric and water transport properties among the layers. It would have been obvious to one having ordinary skill in the art to make the perforations be less than 0.5 mm in diameter in order to prohibit liquid from transferring through the fabric easily, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). With regard to claim 6, Haq et al. disclose the article can remain dry prior to use (column 4, lines 44-46). With regard to claim 7, fabric layers that are ultrasonically bonded are typically subject to delamination unless further bonding techniques are employed to strengthen the bonding between layers. If not, delamination would be obviously enabled by adjusting the number or size of the bonds between the layers. It would have been obvious to a person having ordinary skill in the art to lessen the amount of bonds between the layers in order to obtain a more flexible article, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. With regard to claim 8, Haq et al. disclose the possibility of using an additional layer (column 3, line 28). With regard to claim 12, any additional layer would inherently be a partial fluid barrier, since an article that is physically present could partially bar fluid.

10. Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haq et al. in view of Lutzow et al. and further in view of Bullock et al. (U.S. Patent Application Publication 2002/0151452).

Haq et al. do not disclose specific compositions for the cleaning solution. Bullock et al. disclose a surface wiping comprising a cleaning solution (Abstract). The

Art Unit: 1771

composition may include anionic, amphoteric, or nonionic surfactant. It would have been obvious to one having ordinary skill in the art to use the surfactants disclosed by Bullock et al. in the surface wiping material of Haq et al., since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416. With regard to claim 3, Bullock et al. disclose various sulfate and sulfonate surfactants (paragraph 90). With regard to claim 4, Bullock et al. disclose alkyl polyglucosides (paragraph 101). With regard to claim 5, Bullock et al. disclose using betaines (paragraph 95).

11. Claims 2, 3, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haq et al. in view of Lutzow et al. and further in view of Jackson et al. (U.S. Patent No. 4,865,221).

Haq et al. do not disclose the amount of cleaning solution to be present in the entire article. Jackson et al. disclose a wet-wipe having liquid present in an amount of 120 percent by weight of the web (column 5, lines 58-59). It would have been obvious to one having ordinary skill in the art to impregnate the article of Haq et al. with 120% by weight cleaning solution in order to obtain a wiper that is useful as a wet-wipe, as taught by Jackson et al. With regard to claims 2 and 3, Jackson et al. teach the cleaning solution to comprise disodium phosphate (column 5, line 64).

12. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haq et al. in view of Lutzow et al. and further in view of Chou et al. (U.S. Patent No. 6,312,484).

Haq et al. do not disclose adding an abrasive material or flame treating a surface to give a different texture. Chou et al. disclose a surface wiping article where abrasive

Art Unit: 1771

material is added to the surface in order to improve cleaning capabilities (column 1, lines 11-24). It would have been obvious to one having ordinary skill in the art to add an abrasive material to the surface of the wipe of Haq et al. in order to improve the cleaning ability of the article, as taught by Chou et al.

13. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haq et al. in view of Lutzow et al. and further in view of Perdelwitz et al. (U.S. Patent No. 5,085,914).

Haq et al. do not disclose embossing one of the layers to give a different texture. Perdelwitz et al. disclose embossing apertured cover sheets differently can create a wipe varying surface characteristics (Abstract). It would have been obvious to one having ordinary skill in the art to emboss the article of Haq et al. in order to create a wiping article with a rougher surface on one side and a smoother surface on another to increase the usages of the article, as taught by Perdelwitz et al.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent No. 4,939,017 to Foxman and U.S. Patent No. 5,302,446 to Horn.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (703) 605-4243. The examiner can normally be reached on Monday-Thursday 7-4:30 and alternate Fridays 7-4.

Art Unit: 1771


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Jeremy R. Pierce
Examiner
Art Unit 1771

May 22, 2003



ELIZABETH M. COLE
PRIMARY EXAMINER